

as inventory, supplies, recreation or other nonfarm equipment, or fixtures which cannot be readily described under the column headings of items 2 or 3 of Form FmHA or its successor agency under Public Law 103-354 440-4, an appropriate description of such property will be inserted in item 2 or 3 below the other property, without regard to the column headings.

(3) The advice of the Office of the General Counsel (OGC) will be obtained as to how to describe in financing statements and security agreements items such as grazing permits, milk bases, and membership or stock in co-operative associations. The property to be described in security instruments should be reconciled with any existing security instruments and with Form FmHA or its successor agency under Public Law 103-354 462-1, "Record of the Disposition of Security Property."

(4) After the initial security agreement is executed, and after the borrower obtains all the property which FmHA or its successor agency under Public Law 103-354 wants specifically described, by item, in the security agreement, a new security agreement will be executed.

(f) *Executing security instruments by County Office employees.* The County Supervisor and any County Office employee authorized by the County Supervisor may execute on behalf of the Government any legal instruments necessary to obtain or preserve security for loans. This includes financing statements, security agreements, chattel mortgages and similar lien instruments, as well as severance agreements, consent and subordination agreements, affidavits and acknowledgments.

(g) *Filing or recording security instruments.* (1) Ordinarily, in States which have adopted the UCC, financing statements may be delivered by hand or mailed to the filing officers for filing or recording when the loan is approved. However, when this is not practical, the financing statement may be filed at a later date, but not later than the first withdrawal of loan funds from the supervised bank account or delivery of the loan check to the borrower. If crops or other property of the borrower are located or will be located in a State

other than that of the borrower's residence, the County Office servicing the loan will contact the County Office in the other State for information as to the security instruments to be used and the place(s) of filing or recording in the other State. The financing statement will be filed or recorded as required by State supplements.

(2) Security agreements will not be filed or recorded unless required by State supplements. Form FmHA or its successor agency under Public Law 103-354 440-4 LA or Form FmHA or its successor agency under Public Law 103-354 440-4A LA will be filed or recorded in Louisiana as provided by State supplements.

[43 FR 55883, Nov. 29, 1978, as amended at 50 FR 27415, July 3, 1985; 51 FR 13448, Apr. 21, 1986; 53 FR 35691, Sept. 14, 1988; 68 FR 7697, Feb. 18, 2003]

§§ 1941.58-1941.59 [Reserved]

§ 1941.60 Purchase money security interest.

A purchase money security interest will take priority over an earlier perfected security interest if a security agreement is taken and a financing statement is filed before the purchaser receives possession of the property or within 10 days thereafter, subject to the following limitations:

(a) *Motor vehicles.* For motor vehicles required to be licensed, any action necessary to obtain perfection in the particular State, such as having the security interest noted on the certificate of title, must be taken before the purchaser receives possession or within 10 days. In some States, it is not necessary to file a financing statement to perfect a security interest in such motor vehicles; however, FmHA or its successor agency under Public Law 103-354 will always require both a security agreement and a financing statement. A State supplement will be issued, if necessary to set out the procedure for obtaining a lien on a motor vehicle, motorboat, or any special type of security.

(b) *Farm equipment.* A purchase money security interest in farm equipment costing \$2,500 or less (other than fixtures or motor vehicles required to be licensed), will take priority over an

earlier perfected security interest if a security agreement is obtained, even though a financing statement is not executed or filed. FmHA or its successor agency under Public Law 103–354, however, will always file a financing statement. State supplements will be issued, as necessary, to further explain the requirements for complying with this section.

(c) *Inventory.* A purchase money security interest in inventory will take priority over an earlier perfected security interest, provided:

(1) A security agreement is taken and a financing statement is filed not later than the time the purchaser receives possession of the property, and

(2) Before the purchaser takes possession of the property, written notice is given to the party holding the earlier perfected interest that the purchase money creditor has acquired or expects to acquire a purchase money security interest in the inventory, which must be described by item or type. When determined necessary by OGC, a State supplement will be issued to further explain the requirements for perfecting a purchase money security interest in inventory.

(d) *Fixtures.* A security interest taken in goods before they become fixtures has priority over a security interest in the real estate to which they are attached. A security interest taken in goods after they become fixtures is valid against all persons later acquiring an interest in the real estate. It is not valid against persons who had an interest in the real estate when the goods become fixtures, unless they execute a consent disclaimer or Form FmHA or its successor agency under Public Law 103–354 440–26, “Consent and Subordination Agreement”.

(e) *Crops.* A security interest taken in crops not more than 3 months before the crops are planted or otherwise become growing crops, has priority over an earlier perfected security interest, if the obligation underlying the earlier interest was due more than 6 months before the crops became growing crops.

[43 FR 55883, Nov. 29, 1978, as amended at 54 FR 47959, Nov. 20, 1989]

§§ 1941.61–1941.62 [Reserved]

§ 1941.63 **Lien search.**

(a) *Required lien searches.* (1) A lien search will be obtained at a time that assures that the security instruments give the Government the required security, usually at the time the financing statement (mortgage or crop pledge in Louisiana) is filed or recorded. Lien searches may be obtained after the financing statement is filed, but never after the delivery of the loan check or the first withdrawal of loan funds from the supervised bank account. Form FmHA or its successor agency under Public Law 103–354 440–13, “Report of Lien Search,” or other lien search forms will be used.

(2) Under the UCC, lien searches are necessary in making subsequent loans if an additional financing statement is required; i.e., when crops or fixtures to be taken as security are or will be located on land not described in the existing financing statement, or when property not covered by the financing statement is to be taken as security for the loan.

(3) Lien searches also may be obtained in connection with processing applications when the County Supervisor determines such searches are necessary on an individual case basis.

(4) Although a lien search is not always required for youths who are minors (as defined in State supplements), the County Supervisor may determine that a search is necessary to assure the Government obtains the required security interest.

(b) *Responsibility for obtaining lien searches.* (1) Applicants should obtain and pay for lien searches. FmHA or its successor agency under Public Law 103–354 County Office employees may make lien searches (at no cost to the applicant) in exceptional cases, such as when no other person is available to provide such a service, or when experience has shown that using the service available would lead to an undue delay in closing the loan and the delay would cause undue hardship to the borrower.

(2) The State Director will issue a State supplement setting forth the requirements for lien searches, including the records to be searched and the periods to be covered.